

*EXECUTION COPY*

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

DMJ ASSOCIATES, L.L.C.,

Plaintiff,

v.

CARL A. CAPASSO, et al.,

Case No. 97 CV 7285 (DLI)(RML)

Defendant.

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EXXON MOBIL CORPORATION; and  
QUANTA RESOURCES CORPORATION,

Defendants/Third-Party Plaintiffs,

v.

ACE WASTE OIL, INC., et al.,

Third-Party Defendants.

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**STIPULATION OF VOLUNTARY DISMISSAL  
WITH PREJUDICE PURSUANT TO F.R.C.P. 41(a)(1)(A)(ii)**

In consideration for the payment to be made under the Consent Judgment between Third-Party Plaintiffs Exxon Mobil Corporation and Quanta Resources Corporation (collectively, the “Third-Party Plaintiffs”) and the United States Department of the Air Force, United States Department of the Army, United States Department of the Coast Guard, United States Department of Defense, and United States Department of the Navy (collectively, the “Federal Third-Party Defendants”), it is hereby stipulated and agreed by and among the Third-Party Plaintiffs, the Federal Third-Party Defendants, and the other Third-Party Defendants set forth below (the “Private Third-Party Defendants”) that:

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1. The claims asserted against and by the Federal Third-Party Defendants in the above-captioned Third-Party Action are voluntarily dismissed with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii);

2. Subject to the exceptions set forth in this paragraph and in Paragraph 3, any claims, including counterclaims, cross-claims and third-party claims, that the Third-Party Plaintiffs or the Private Third-Party Defendants could have brought in the above-captioned action against the United States, including the Federal Third-Party Defendants, for solid wastes, hazardous materials or substances, petroleum, pollutants and/or contaminants at, under, migrating across or emanating from the Quanta Property and/or the Capasso Properties and any other adjacent parcels, if any, impacted by Quanta Property contamination, are released, surrendered and forever discharged. It is expressly agreed and understood by the Parties that, notwithstanding the above, this does not include claims related to any alleged migration of solid wastes, hazardous materials or substances, petroleum, pollutants and/or contaminants from the Quanta Property and/or the Capasso Properties to Newtown Creek and for any claims of natural resource damages related to Newtown Creek.<sup>1</sup>

3. Subject to the exceptions set forth in this paragraph, any claims, including counterclaims, cross-claims and fourth-party claims, that the Federal Third-Party Defendants could have brought in the above-captioned action against the Third-Party Plaintiffs or the Private Third-Party Defendants for solid wastes, hazardous materials or substances, petroleum, pollutants and/or contaminants at, under, migrating across or emanating from the Quanta Property and/or the Capasso Properties and any other adjacent parcels, if any, impacted by

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<sup>1</sup> All terms used in this Stipulation are as defined in the Consent Judgment between Third-Party Plaintiffs and the Federal Third-Party Defendants.

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Quanta Property contamination, are released, surrendered and forever discharged. It is expressly agreed and understood by the Parties that, notwithstanding the above, this does not include claims related to any alleged migration of solid wastes, hazardous materials or substances, petroleum, pollutants and/or contaminants from the Quanta Property and/or the Capasso Properties to Newtown Creek and for any claims of natural resource damages related to Newtown Creek. It is further expressly understood by the Parties that the United States specifically reserves its right to assert any claims or causes of action brought on behalf of EPA or a federal natural resources trustee and nothing in this Stipulation shall constitute or be construed as a waiver, limitation or release of any claims or causes of action by the United States to enforce any federal laws or regulations at or in connection with the Quanta Property and/or the Capasso Properties and any other adjacent parcels, if any, impacted by Quanta Property contamination.

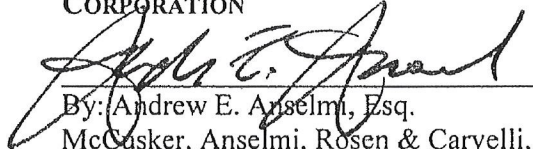
4. In the event of any action brought on behalf of EPA or a federal natural resource trustee as set forth in Paragraph 3 above, the Third-Party Plaintiffs and Private Third-Party Defendants reserve all rights and defenses, except that the Third-Party Plaintiffs and Private Third-Party Defendants shall not seek contribution by the United States for the DMJ Litigation other than the payment required by the Consent Judgment between the Third-Party Plaintiffs and the Federal Third-Party Defendants.

This Stipulation is without costs assessed by the Court against any party and is entered pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii).

*EXECUTION COPY*

Signed and Agreed To:

**EXXON MOBIL CORPORATION, AND EXXONMOBIL OIL  
CORPORATION**



By: Andrew E. Anselmi, Esq.  
McCusker, Anselmi, Rosen & Carvelli, P.C. Attorneys for  
Exxon Mobil Corporation, and ExxonMobil Oil  
Corporation

**QUANTA RESOURCES CORPORATION**

\_\_\_\_\_  
By: Allen G. Reiter, Esq.  
Arent Fox LLP  
Attorneys for Quanta Resources Corporation

**UNITED STATES DEPARTMENT OF THE AIR FORCE;  
UNITED STATES DEPARTMENT OF THE ARMY; UNITED  
STATES DEPARTMENT OF THE COAST GUARD; UNITED  
STATES DEPARTMENT OF DEFENSE; UNITED STATES  
DEPARTMENT OF THE NAVY**

**RICHARD P. DONOGHUE**  
United States Attorney  
Eastern District of New York

\_\_\_\_\_  
By: Kevan Cleary  
Assistant United States Attorney

**AVCO CORPORATION (A/K/A AVCO LYCOMING)**

\_\_\_\_\_  
By: David A. Roth, Esq.  
Emily A. Kaller, Esq.  
Greenbaum, Rowe, Smith & Davis, LLP  
Attorneys for AVCO Corporation (a/k/a AVCO  
Lycoming)



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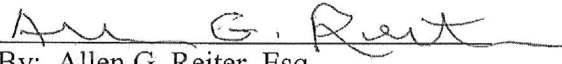
**EXXON MOBIL CORPORATION, AND EXXONMOBIL OIL  
CORPORATION**

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By: Andrew E. Anselmi, Esq.  
McCusker, Anselmi, Rosen & Carvelli, P.C. Attorneys for  
Exxon Mobil Corporation, and ExxonMobil Oil  
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**QUANTA RESOURCES CORPORATION**

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By: Allen G. Reiter, Esq.  
Arent Fox LLP  
Attorneys for Quanta Resources Corporation

**UNITED STATES DEPARTMENT OF THE AIR FORCE;  
UNITED STATES DEPARTMENT OF THE ARMY; UNITED  
STATES DEPARTMENT OF THE COAST GUARD; UNITED  
STATES DEPARTMENT OF DEFENSE; UNITED STATES  
DEPARTMENT OF THE NAVY**

**RICHARD P. DONOGHUE**  
United States Attorney  
Eastern District of New York

---

By: Kevan Cleary  
Assistant United States Attorney

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By: David A. Roth, Esq.  
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Attorneys for AVCO Corporation (a/k/a AVCO  
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Assistant United States Attorney

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By: Andrew E. Anselmi, Esq.  
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**QUANTA RESOURCES CORPORATION**

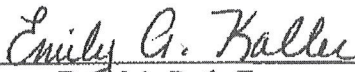
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DEPARTMENT OF THE NAVY**

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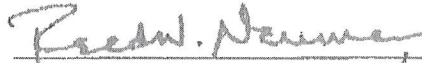
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Emily A. Kaller, Esq.  
Greenbaum, Rowe, Smith & Davis, LLP  
Attorneys for AVCO Corporation (a/k/a AVCO  
Lycoming)

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**COTY, INC. (F/K/A CLAIROL, INC., SUED AS PROCTER & GAMBLE HAIRCARE, LLC)**



By: Reed W. Neuman, Esq. 2/19/19

Nossaman, LLP

Attorneys for Coty, Inc. (f/k/a Clairol, Inc., sued as Procter & Gamble Haircare, LLC)

**CROSMAN CORPORATION (SUED AS "CROSSMAN CORP. (F/K/A COLEMAN AIRGUNS, INC) (F/K/A CROSMAN ARMS COMPANY, INC.)")**

By: Thomas F. Walsh, Esq.

Barclay Damon LLP

Attorneys for Crosman Corporation (f/k/a Coleman Airguns, Inc.) (f/k/a Crosman Arms Company, Inc.)

**CROWN CORK & SEAL COMPANY, INC.**

By: Alan S. Golub, Esq.

Fein, Such, Kahn & Shepard, P.C.

Attorneys for Crown Cork & Seal Company, Inc.

**EMHART TEKNOLOGIES LLC**

By: Jeffrey M. Karp, Esq.

Sullivan & Worcester LLP

Attorneys for Emhart Teknologies LLC

**KRAFT HEINZ FOODS COMPANY (F/K/A KRAFT FOODS GLOBAL, INC.) (F/K/A WARE CHEMICAL)**

**(SUED AS KRAFT FOODS GLOBAL, INC. F/K/A WARE CHEMICAL)**

By: Dan Riesel, Esq.

Sive, Paget & Reisel, P.C.

Attorneys for Kraft Heinz Foods Company (f/k/a Kraft Foods Global, Inc.) (f/k/a Ware Chemical)

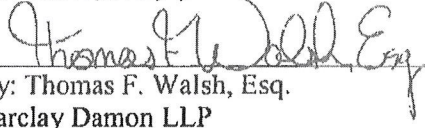
**COTY, INC. (F/K/A CLAIROL, INC., SUED AS PROCTER & GAMBLE HAIRCARE, LLC)**

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By: Reed W. Neuman, Esq.  
Nossaman, LLP  
Attorneys for Coty, Inc. (f/k/a Clairol, Inc., sued as Procter & Gamble Haircare, LLC)

**CROSMAN CORPORATION (SUED AS "CROSSMAN CORP. (F/K/A COLEMAN AIRGUNS, INC) (F/K/A CROSMAN ARMS COMPANY, INC.)")**

---

  
By: Thomas F. Walsh, Esq.  
Barclay Damon LLP  
Attorneys for Crosman Corporation (f/k/a Coleman Airguns, Inc.) (f/k/a Crosman Arms Company, Inc.)

**CROWN CORK & SEAL COMPANY, INC.**

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By: Alan S. Golub, Esq.  
Fein, Such, Kahn & Shepard, P.C.  
Attorneys for Crown Cork & Seal Company, Inc.

**EMHART TEKNOLOGIES, LLC**

---

By: Jeffrey M. Karp, Esq.  
Sullivan & Worcester LLP  
Attorneys for Emhart Teknologies, LLC

**KRAFT HEINZ FOODS COMPANY (F/K/A KRAFT FOODS GLOBAL, INC.) (F/K/A WARE CHEMICAL)  
(SUED AS KRAFT FOODS GLOBAL, INC. F/K/A WARE CHEMICAL)**

---

By: Dan Riesel, Esq.  
Sive, Paget & Reisel, P.C.  
Attorneys for Kraft Heinz Foods Company (f/k/a Kraft Foods Global, Inc.) (f/k/a Ware Chemical)



EXHIBIT COPY

**COTY, INC. (F/K/A CLAIROL, INC., SUED AS PROCTER & GAMBLE HAIRCARE, LLC)**

---

By: Reed W. Neuman, Esq.  
Nossaman, LLP  
Attorneys for Coty, Inc. (f/k/a Clairol, Inc., sued as Procter & Gamble Haircare, LLC)


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By: Thomas F. Walsh, Esq.  
Barclay Damon LLP  
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**CROWN CORK & SEAL COMPANY, INC.**

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By: Alan S. Golub, Esq.  
Fein, Such, Kahn & Shepard, P.C.  
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**EMHART TEKNOLOGIES LLC**

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Sullivan & Worcester LLP  
Attorneys for Emhart Teknologies LLC

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By: Dan Riesel, Esq.  
Sive, Paget & Reisel, P.C.  
Attorneys for Kraft Heinz Foods Company (f/k/a Kraft Foods Global, Inc.) (f/k/a Ware Chemical)

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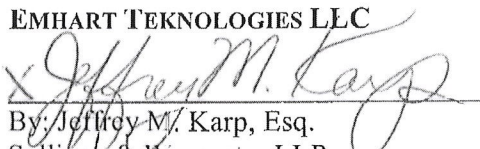
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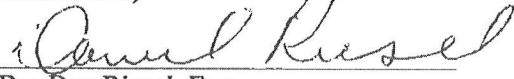
**EMHART TEKNOLOGIES LLC**

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(SUED AS KRAFT FOODS GLOBAL, INC. F/K/A WARE CHEMICAL)**

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**NOVELIS CORPORATION (F/K/A ALCAN ALUMINUM CORPORATION) (A/K/A ALCAN SHEET & PLATE)**



---

By: Mark Kindt, Esq.  
Attorney for Novelis Corporation (f/k/a ALCAN Aluminum Corporation) (a/k/a ALCAN Sheet & Plate)

**PHILLIPS 66 COMPANY (AS SUCCESSOR IN INTEREST TO SUED PARTY CONOCO PHILLIPS COMPANY)**

---

By: Steven Gray, Esq.  
Waters McPherson McNeill, PC  
Attorneys for Phillips 66 Company (As Successor In Interest to Sued Party Conoco Phillips Company)

**REVERE COPPER PRODUCTS, INC. (SUED AS REVERE COPPER PRODUCTS, INC. (A/K/A REVERE COPPER & BRASS INCORPORATED))**

---

By: Robert R. Tyson, Esq.  
Bond, Schoeneck & King  
Attorneys for Revere Copper Products, Inc.

**REXAM BEVERAGE CAN COMPANY (F/K/A NATIONAL CAN COMPANY) (F/K/A AMERICAN NATIONAL CAN COMPANY)**

---

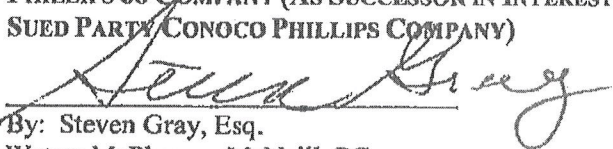
By: William S. Hatfield, Esq.  
Gibbons P.C.  
Attorneys for Rexam Beverage Can Company (f/k/a National Can Company)(f/k/a American National Can Company)

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**NOVELIS CORPORATION (F/K/A ALCAN ALUMINUM CORPORATION) (A/K/A ALCAN SHEET & PLATE)**

\_\_\_\_\_  
By: Mark Kindt, Esq.  
Attorney for Novelis Corporation (f/k/a ALCAN Aluminum Corporation) (a/k/a ALCAN Sheet & Plate)

**PHILLIPS 66 COMPANY (AS SUCCESSOR IN INTEREST TO SUED PARTY CONOCO PHILLIPS COMPANY)**

  
\_\_\_\_\_  
By: Steven Gray, Esq.  
Waters McPherson McNeill, PC  
Attorneys for Phillips 66 Company (As Successor In Interest to Sued Party Conoco Phillips Company)

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\_\_\_\_\_  
By: Robert R. Tyson, Esq.  
Bond, Schoeneck & King  
Attorneys for Revere Copper Products, Inc.

**REXAM BEVERAGE CAN COMPANY (F/K/A NATIONAL CAN COMPANY) (F/K/A AMERICAN NATIONAL CAN COMPANY)**

\_\_\_\_\_  
By: William S. Hatfield, Esq.  
Gibbons P.C.  
Attorneys for Rexam Beverage Can Company (f/k/a National Can Company)(f/k/a American National Can Company)



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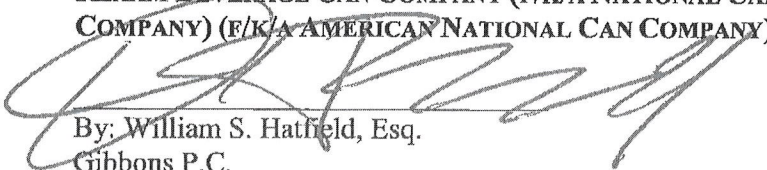
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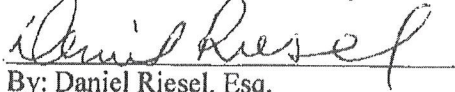
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Attorneys for Revere Copper Products, Inc.

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By: William S. Hatfield, Esq.  
Gibbons P.C.  
Attorneys for Rexam Beverage Can Company (f/k/a National Can Company)(f/k/a American National Can Company)

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RIVER TERMINAL DEVELOPMENT (SCRAP YARD  
DIVISION) (A/K/A (RTC PROPERTIES)(F/K/A UNION  
MINERALS & ALLOYS CORP.)



By: Daniel Riesel, Esq.  
Sive, Paget & Riesel P.C.  
Attorneys for River Terminal Development (Scrap Yard  
Division) (a/k/a RTC Properties)(f/k/a Union Minerals &  
Alloys Corp.)

SUNOCO (R&M), LLC (F/K/A SUNOCO, INC. (R&M))  
(SUED AS SUNOCO, INC. (A/K/A SUN OIL REFINERY) (F/K/A  
SUN OIL CO.))

By: Timothy M. Sullivan, Esq.  
Beveridge & Diamond, P.C.  
Attorneys for Sunoco (R&M), LLC (f/k/a Sunoco, Inc.  
(R&M)) (sued as Sunoco, Inc. (a/k/a Sun Oil Refinery)  
(f/k/a Sun Oil Co.))

TDY INDUSTRIES, LLC  
(F/K/A AND SUED AS TDY INDUSTRIES, INC.)

By: Duke K. McCall, III, Esq.  
Morgan Lewis & Bockius, LLP  
1111 Pennsylvania, NW  
Washington, DC 20004  
Attorneys for TDY Industries, LLC (f/k/a TDY  
Industries, Inc.)

WYMAN-GORDON COMPANY

By: Sean Monaghan, Esq.  
Schenck Price Smith & King, LLP  
Counsel for Wyman-Gordon Company

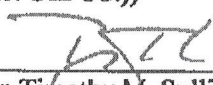
SO ORDERED THIS \_\_\_\_\_  
DAY OF \_\_\_\_\_, 2019.

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**RIVER TERMINAL DEVELOPMENT (SCRAP YARD  
DIVISION) (A/K/A (RTC PROPERTIES)(F/K/A UNION  
MINERAL & ALLOYS CORP.)**

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By: Daniel Riesel, Esq.  
Sive, Paget & Riesel P.C.  
Attorneys for River Terminal Development (Scrap Yard  
Division) (a/k/a RTC Properties)(f/k/a Union Mineral &  
Alloys Corp.)

**SUNOCO (R&M), LLC (F/K/A SUNOCO, INC. (R&M))  
(SUED AS SUNOCO, INC. (A/K/A SUN OIL REFINERY) (F/K/A  
SUN OIL CO.))**

  
\_\_\_\_\_  
By: Timothy M. Sullivan, Esq.  
Beveridge & Diamond, P.C.  
Attorneys for Sunoco (R&M), LLC (f/k/a Sunoco, Inc.  
(R&M)) (sued as Sunoco, Inc. (a/k/a Sun Oil Refinery)  
(f/k/a Sun Oil Co.))

**TDY INDUSTRIES, LLC  
(F/K/A AND SUED AS TDY INDUSTRIES, INC.)**

\_\_\_\_\_  
By: Duke K. McCall, III, Esq.  
Morgan Lewis & Bockius, LLP  
1111 Pennsylvania, NW  
Washington, DC 20004  
Attorneys for TDY Industries, LLC (f/k/a TDY  
Industries, Inc.)

**WYMAN-GORDON COMPANY**

\_\_\_\_\_  
By: Sean Monaghan, Esq.  
Schenck Price Smith & King, LLP  
Counsel for Wyman-Gordon Company

SO ORDERED THIS \_\_\_\_\_  
DAY OF \_\_\_\_\_, 2019.

*EXECUTION COPY*


**RIVER TERMINAL DEVELOPMENT (SCRAP YARD  
DIVISION) (A/K/A (RTC PROPERTIES)(F/K/A UNION  
MINERAL & ALLOYS CORP.)**

\_\_\_\_\_  
By: Daniel Riesel, Esq.  
Sive, Paget & Riesel P.C.  
Attorneys for River Terminal Development (Scrap Yard  
Division) (a/k/a RTC Properties)(f/k/a Union Mineral &  
Alloys Corp.)

**SUNOCO, INC. (ORIGINALLY SUED AS SUNOCO, INC. (A/K/A  
SUN OIL REFINERY) (F/K/A SUN OIL CO.));**

\_\_\_\_\_  
By: Timothy M. Sullivan, Esq.  
Beveridge & Diamond, P.C.  
Attorneys for Sunoco, Inc. (originally sued as Sunoco Inc.  
(a/k/a Sun Oil Refinery) (f/k/a Sun Oil Co.))

**TDY INDUSTRIES, LLC  
(F/K/A AND SUED AS TDY INDUSTRIES, INC.)**

  
\_\_\_\_\_  
By: Duke K. McCall, III, Esq.  
Morgan Lewis & Bockius, LLP  
1111 Pennsylvania, NW  
Washington, DC 20004  
Attorneys for TDY Industries, LLC (f/k/a TDY  
Industries, Inc.)

**WYMAN-GORDON COMPANY**

\_\_\_\_\_  
By: Sean Monaghan, Esq.  
Schenck Price Smith & King, LLP  
Counsel for Wyman-Gordon Company

SO ORDERED THIS \_\_\_\_\_  
DAY OF \_\_\_\_\_, 2019.

\_\_\_\_\_  
**HONORABLE DORA L. IRIZARRY  
UNITED STATES CHIEF DISTRICT JUDGE**



*EXECUTION COPY*

**RIVER TERMINAL DEVELOPMENT (SCRAP YARD  
DIVISION) (A/K/A (RTC PROPERTIES)(F/K/A UNION  
MINERAL & ALLOYS CORP.)**

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By: Daniel Riesel, Esq.  
Sive, Paget & Riesel P.C.  
Attorneys for River Terminal Development (Scrap Yard  
Division) (a/k/a RTC Properties)(f/k/a Union Mineral &  
Alloys Corp.)

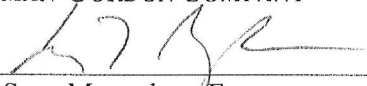
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**WYMAN-GORDON COMPANY**

  
\_\_\_\_\_  
By: Sean Monaghan, Esq.  
Schenck Price Smith & King, LLP  
Counsel for Wyman-Gordon Company

**SO ORDERED THIS \_\_\_\_\_  
DAY OF \_\_\_\_\_, 2019.**

\_\_\_\_\_  
**HONORABLE DORA L. IRIZARRY  
UNITED STATES CHIEF DISTRICT JUDGE**